

## PATENT APPLICATION

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2950.01US02

KAMBE et al.

Confirmation No.: 6755

Application No.: 09/841,255

Examiner: C.M. Koslow

Filed: April 24, 2001

Group Art Unit: 1755

For: ABRASIVE PARTICLES FOR SURFACE POLISHING

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE  
PATENTING REJECTION OVER A PRIOR PATENT

Box RCE  
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The owner, NeoPhotonics Corporation (previously named NanoGram Corporation), of the entire interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent No. 6,290,735. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is

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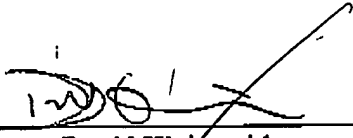
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Application No. 09/841,255

statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed.

The undersigned is an authorized official of the assignee.

Date: 18 December 2002

  
Name: David Kleinsmith  
Title: Vice President of Intellectual Property  
and Director of Legal Affairs

The Commissioner is hereby authorized charge Deposit Account No. 16-0631 in the amount of \$55.00 for payment of the fee required under 37 C.F.R. § 1.321(b) and § 1.20(d).

The undersigned is an attorney or agent of record.

Respectfully submitted,



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Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

## CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office, Fax No. 703-872-9311 on the date shown below.

December 18, 2002  
Date

  
Shari R. Thorndike